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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,125	10/16/2001	David R. Cheriton	57002	5517
26327	7590	03/30/2006	EXAMINER	
THE LAW OFFICE OF KIRK D. WILLIAMS 1234 S. OGDEN ST. DENVER, CO 80210				PARK, JUNG H
		ART UNIT		PAPER NUMBER
				2616

DATE MAILED: 03/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/981,125	CHERITON, DAVID R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jung Park	2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on January 9, 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,6,8-11 and 15-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1,6,8-11,13, and 22 is/are allowed.
- 6) Claim(s) 19-21 and 23-27 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 15-18 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Merchant et al. (U.S. 5,408,463, hereafter "Merchant").

Regarding claims 15 and 23, Merchant discloses the system of claim 15 and the method of claim 23. Merchant discloses, "a packet switching system [and a method] comprising:

- a packet stream splitter (*111-1 fig. 1*); and
- a first and a second configurable filters (*101 & 102 fig. 1*) coupled to the packet stream splitter (*as shown in fig. 1*), the first and the second configurable filters each including a normal operating state (*it is inherent that an initial state of the filters is normal, otherwise the filter function is not operable*);

wherein the packet stream splitter is configured to provide a received packet stream to each of the first and the second configurable filters (*fig. 1 where the first interface 111-1 provides a received packet from an input line 110-1 to filters 101 and 102*); and

wherein when the first and the second configurable filters are in their respective normal operating states: a particular packet is forwarded only by one of the first and the second configurable filters (*fig. 1 where one of modules 101 & 102 is selected by the selector 119 so that the output packet through interface 122-1 is a particular packet*

*forwarded only by one of the modules) and both the first and second configurable filters are configured to forward at least one packet (fig. 1 where the modules 101 & 102 are configured to be selected by the selector so that at least one packet is forwarded by the modules).*"

Regarding claim 16, Merchant further discloses, "the first configurable filter further includes an all packet forwarding state, wherein the first configurable filter is configured to switch between the normal operating state and the all packet forwarding state in response to a signal (col.2, ln.46-49 because the switch modules are arranged to operate for tolerance purposes, the first module (filter) is configured to forward/drop all packets when it receives a control signal in response to a detected error or fault condition)."

Regarding claim 17, Merchant further discloses, "the signal is generated in response to detection of an error condition affecting a set of packets forwarded by the second configurable filer (col.2, ln.46-49 where the failure of a first active module (filter) affects a set of packets forwarded by the standby module)."

Regarding claim 18, Merchant further discloses, "wherein the second configurable filer further includes an all packet blocking state, wherein the second configurable filter is configured to switch between the normal operating state and the all packet blocking state in response to the signal (col.2, ln.46-49 where the active module also blocks all packets when it receives an error detecting signal and the operating state is changed between active and standby)."

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 19-21 and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merchant in view of Pitcher et al. (U.S. 5,408,463, "Pitcher").

Regarding claims 19 and 25, Merchant lacks what Pitcher discloses, "each of the plurality of configurable filers determines whether to drop or forward a particular packet based on at least one value contained within the particular packet. (col.3, lines 4-9 *where the filter forwards or drops packets according to the IP address in the data packet).*"

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include the filter feature in Pitcher's system with Merchant to determine whether to drop or forward a particular based on IP address. A motivation for including the filtering function is that each line card handles roughly half the traffic of the links by filtering the packets according to destination IP address, source IP address, or other parameters in IP packet.

Regarding claims 20 and 26, Merchant lacks what Pitcher discloses, "each of the plurality of configurable filters determines whether to drop or forward a particular packet based on a value of a source address, a destination address, a packet type, or a quality

of service of the particular packet. (col.3, lines 4-9 *where the filter forwards or drops packets according to the IP address in the data packet.*)"

This claim is rejected for the same reasons and motivation set forth in the rejection of claim 19.

Regarding claims 21 and 27, Merchant fails to teach that the configurable filters are each configured to forward approximately one-half of the packets received by the respective first or second configurable filter.

At the time of the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to distribute the input traffic to the first and second filters since one would be motivated to do load balancing between the filters.

Regarding claim 24, it is a claim about if the first configurable filter does not meet the condition specified by the present filter such as forwarding/dropping all packet, then the second filter does an action of dropping/forwarding all packet, that is, defining a different forwarding action (col.4, ln.1-4; abstract, ln.15-18).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include the alternative filter selecting function taught by Pitcher to the filter modules disclosed by Merchant since one would be motivated to control the flow of data packets in a network device (Pitcher, col.3, ln.27-29).

#### ***Allowable Subject Matter***

5. Claims 1, 6, 8-11, 13, and 22 are allowed.

***Response to Arguments***

6. Applicant's arguments filed January 9, 2006 have been fully considered but they are not persuasive.

At pages 11, applicant argues that Merchant does not teach only forwarding a particular packet by only one of the configurable filters (rather both forward each packet). In reply, Merchant teaches that one of modules 101 & 102 is selected by the selector 119 so that the output packet through interface 122-1 is a particular packet forwarded only by one of the modules). Therefore, the examiner respectfully disagrees.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

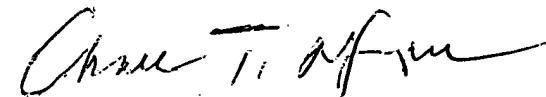
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jung Park whose telephone number is 571-272-8565. The examiner can normally be reached on Mon-Fri during 7:10-4:40.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JP

Jung Park  
Patent Examiner  
Art Unit 2661  
March 21, 2006



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